



Providing Opportunity to Family Forestland Owners

June 12, 2014

VIA EMAIL: [Nonresponsive]

Jane O'Keeffe, Chair
Environmental Quality Commission
Department of Environmental Quality
811 SW 6th
Portland, OR 97204-1390

Dear Chair O'Keeffe,

Thank you for the response to Oregon Small Woodlands Association's (OSWA) March 31, 2014 letter to you from Jennifer Wigal, Water Quality Program Manager. OSWA has reviewed the Washington Protecting Cold Water (PCW) standards and believe we have a good understanding of what is authorized in Washington, and more importantly, how and why those standards were developed. The reference in our letter on Washington's PCW standard was to show there are other options approved by EPA on cold water criteria in a state's PCW standard than the one selected in Oregon.

We clearly understand Oregon and Washington are greatly different and one should not draw conclusions from a simple comparison of the cold water criteria alone. An equally poor outcome would occur if a PCW standard was adopted in isolation of other important stream protection mechanisms. We believe that is what has occurred in Oregon with the current standard. We actually have a huge advantage over Washington when determining what needs to be done to protect salmon, steelhead, and bull trout. Oregon's land use planning laws are not found in Washington.

Under Oregon's land use and zoning laws, basically all forestlands will remain as forestlands. From a 2013 study, only 2% of Oregon's Western Oregon wild land forest was converted to other uses between 1974 and 2009. All conversions fall under a Memorandum of Agreement between, Oregon Department of Forestry, Department of Environmental Quality, Oregon Department of Agriculture, Division of State Lands, Oregon Department of Fish and Wildlife, Oregon Parks and Recreation Department, and Department of Land Conservation and Development. The intent of the agreement is to ensure continuous protection for recognized forest resource values such as water quality. Basically, all existing forest streams will remain protected.

Washington does have a Growth Management Act that requires counties and incorporated municipalities to have land use planning, but it is nowhere near the consistency of forest protection found in Oregon. Washington has lost 6% of the wild

Oregon Small Woodlands Association 187 High Street NE, Suite 208, Salem, OR 97301
Phone: 503.588.1813 - Fax: 503.588.1970 – Web: www.oswa.org



Providing Opportunity to Family Forestland Owners

land forest in Western Washington between 1976 and 2006. Washington's different riparian protections in its Forest Practice Laws and implementation of Protecting Cold Water requirements could easily be explained because their forests are in much greater danger of being converted to other land uses than in Oregon.

Having said all of that for context, it is important that no one gets caught up in comparisons of different states and the pathways they take to protect water quality. The beauty of Oregon's land use planning and zoning regulations and Forest Practices Act is that even though there are restrictions on land use, there is also recognition that to be fair to landowners, science alone must be the driver of regulations on forestland and a cost to benefit ratio must be considered.

It is our understanding that the current cold water criteria of 0.3 degree Celsius is based entirely on a theory that salmon, steelhead, and bull trout must have only natural conditions to successfully survive. We believe this is nonsense and the information from the paired watershed studies proves it is not the right threshold for Oregon. Every practicing forester understands the resiliency of nature and how to complement nature with the risks of any human activities to achieve a desired forest condition. The Oregon Plan for Salmon and Watersheds is a great example of how scientifically based specific human activities have improved the habitat for fish species on private forestland.

There is no science that actually determines 0.3 degree Celsius is the correct threshold for maintaining forest stream temperatures and only a theory that all human activities that effect temperature must be bad. Obviously, all forestland owners have an obligation to protect habitat for fish species in forest streams, but it is absurd to ignore the new science that shows no negative impact to fish with minor and temporary temperature increases, well below the numeric criteria, caused by regulated human activity. There is actually evidence now that shows minor and temporary human caused temperature increases can actually improve the quantity of food for fish and actually provide a benefit to fish. It is particularly absurd to ignore this information when one realizes the potential economic loss to forest landowners if additional regulatory actions are adopted to ensure no temperature increases without identified benefits to fish. There will also be an economic impact to the rural communities in Oregon that depend on timber harvest from private land to sustain jobs, their economy, and way of life.

We are pleased that the EQC will have an opportunity on June 19th to learn about the Watershed Research Cooperative (WRC) and hear about the results of paired watershed studies. It is our understanding that the DEQ staff will follow the WRC with discussion on DEQ's water quality approach for temperature. It is our hope that when you hear the information presented by the WRC and the DEQ staff that it will be clear to you the difference between public policies based on theories with little or no regard to risk and a cost benefit evaluation or what they could be when based on science with a



Providing Opportunity to Family Forestland Owners

clear relationship between risk and benefits. It is unfortunate that all of the planned WRC research is not yet complete, but early results suggest the theories used to develop EPA's guidance as Oregon developed its PCW standard over a decade ago are not supported by current science.

OSWA looks forward to continuing our dialogue with the EQC on this extremely important issue. As we have reviewed the parameters that guide the EQC and DEQ, we are pleased to find no statements that would exclude common sense and fairness from your decision making process. In fact, the Clean Water Act allows these parameters and it appears that EPA's guidance to Oregon is where the common sense ball was dropped. Their guidance could be construed as made with a paucity of data and a healthy dose of precautionary principle. The Watershed Research Cooperative provides solid data on which previous decisions could be refined with more information and therefore less need for conservatism.

OSWA encourages the Commission to use both common sense and fairness in light of the fact that current science supports changing Oregon's existing Cold Water Criteria.

Sincerely,

Jim James
Executive Director

Scott Hayes
President

cc:
Dick Pederson
Doug Decker
Tom Imensen
Richard Whitman